

Notice of Allowability

Application No.

09/820,574

Examiner

Timothy M. Harbeck

Applicant(s)

MALTZMAN, REED

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment after Appeal filed 12/20/2006.
2. ☒ The allowed claim(s) is/are 1-5, 7-11, 13-20, 22 and 30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Allowable Subject Matter

Claims 1-5, 7-11, 13-20, 22 and 30 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest each and every limitation of the present invention.

The present invention is directed toward a system and method for facilitating an electronic transaction that includes both an auction purchase process and a fixed-price purchase process.

Independent Claim 1 reads:

1. *A computer implemented method of facilitating an electronic transaction, the computer implemented method comprising:*
presenting, via a first computer system, both an auction purchase process and a fixed-price purchase process for purchase of an offering to a buyer; and
responsive to receipt of a bid from the buyer as part of the auction purchase process, removing the presentation of the fixed-price purchase process.

Essentially the present invention presents an object for purchase electronically with both an option to buy the object outright at a fixed price, or enter a bid and initiate an auction for the object. Whichever route is chosen (fixed price or auction) the other option is removed. Clearly if the fixed price option is chosen, there could be no auction as the object is purchase right away. However, if the first user enters a bid, the option to buy the object outright is removed and the auction process commences.

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The closest prior art of record does not teach or suggest each and every limitation of the claimed invention:

With regards to independent claims 1 and 30:

Woolston et al (US Patent 6,202,051) teaches facilitating Internet commerce through internetworked auctions. Woolston discloses a method of facilitating an electronic transaction comprising presenting via a computer system an auction purchase process. However, Woolston teaches that once a participant indicates their wishes to auction a good "the good is identified as waiting for an auction date and may not be purchased on the electronic market" (Column 5, lines 53-64). It is clear from the description of Woolston's invention that the prior art does not consider "presenting, along with the auction purchase price, a fixed-price purchase process; and responsive to receipt of a bid from the buyer as part of the auction purchase process, removing the presentation of the fixed-price purchase process" as included in independent claims 1 and 30.

Dinwoodie (WO 99/63461) discloses an interactive remote auction bidding system; including a method of facilitating an electronic transaction comprising presenting via a computer system an auction purchase process. However Dinwoodie is silent on fixed price purchase process and therefore does not disclose presenting, along with the auction purchase price, a fixed-price purchase process; and "responsive to receipt of a bid from the buyer as part of the auction purchase process, removing the presentation of the fixed-price purchase process," as included in independent claims 1 and 30.

Hof discloses that eBay, a popular electronic auction website is mulling "fixed price auctions," including the presentation of both an auction purchase process and a fixed-price purchase process. Hof mentions that eBay is mulling "fixed price auctions", but fails to describe or define this term. At best, this refers to the simultaneous presentation of an auction process and a fixed price purchase process, but does not disclose the removal of the fixed-price purchase option upon the receipt of a bid from any potential buyer as required by claims 1 and 30.

With regards to independent claim 10:

Woolston discloses a method of facilitating an electronic transaction comprising presenting via a computer system an auction purchase process. However, Woolston teaches that once a participant indicates their wishes to auction a good "the good is identified as waiting for an auction date and may not be purchased on the electronic market" (Column 5, lines 53-64). It is clear from the description of Woolston's invention that the prior art does not consider "if an affirmative indication to purchase the offering at the seller determined price is received from the buyer and no bids have been received for the offering, the buyer, having given affirmative indication, is the successful buyer; if a first bid is received from the buyer then a buyer from which the highest bid is received is the successful buyer," as included in independent claim 10. This conditional statement of determining a successful bidder is in step with the initial presentation of both a fixed price purchase process and an auction purchase process.

Dinwoodie (WO 99/63461) discloses an interactive remote auction bidding system; including a method of facilitating an electronic transaction comprising

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presenting via a computer system an auction purchase process. However Dinwoodie is silent on fixed price purchase process and therefore does not disclose "if an affirmative indication to purchase the offering at the seller determined price is received from the buyer and no bids have been received for the offering, the buyer, having given affirmative indication, is the successful buyer; if a first bid is received from the buyer then a buyer from which the highest bid is received is the successful buyer," as included in independent claim 10.

Hof discloses that eBay, a popular electronic auction website is mulling "fixed price auctions," including the presentation of both an auction purchase process and a fixed-price purchase process. Hof mentions that eBay is mulling "fixed price auctions", but fails to describe or define this term. At best, this refers to the simultaneous presentation of an auction process and a fixed price purchase process, but does not disclose the step of determining a successful buyer comprising "if an affirmative indication to purchase the offering at the seller determined price is received from the buyer and no bids have been received for the offering, the buyer, having given affirmative indication, is the successful buyer; if a first bid is received from the buyer then a buyer from which the highest bid is received is the successful buyer," as included in independent claim 10.

With regards to independent claim 20:

Woolston et al (US Patent 6,202,051) teaches facilitating Internet commerce through internetworked auctions. Woolston discloses a method of facilitating an electronic transaction comprising presenting via a computer system an auction

purchase process. However, Woolston teaches that once a participant indicates their wishes to auction a good "the good is identified as waiting for an auction date and may not be purchased on the electronic market" (Column 5, lines 53-64). It is clear from the description of Woolston's invention that the prior art does not consider "automatically displaying a list of offering information in the selected category, with a visual indicator appearing in association with a respective offering if a seller of the offering has given affirmative indication to allow a buyer a chance to buy the first offering at a seller determined price; and removing the visual indicator after a first bid is received on the first offering from a first buyer," as included in independent claim 20.

Dinwoodie (WO 99/63461) discloses an interactive remote auction bidding system; including a method of facilitating an electronic transaction comprising presenting via a computer system an auction purchase process. However Dinwoodie is silent on fixed price purchase process and therefore does not disclose "automatically displaying a list of offering information in the selected category, with a visual indicator appearing in association with a respective offering if a seller of the offering has given affirmative indication to allow a buyer a chance to buy the first offering at a seller determined price; and removing the visual indicator after a first bid is received on the first offering from a first buyer," as included in independent claim 20.

Hof discloses that eBay, a popular electronic auction website is mulling "fixed price auctions," including the presentation of both an auction purchase process and a fixed-price purchase process. Hof mentions that eBay is mulling "fixed price auctions", but fails to describe or define this term. At best, this refers to the simultaneous

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presentation of an auction process and a fixed price purchase process, but does not disclose the step of "automatically displaying a list of offering information in the selected category, with a visual indicator appearing in association with a respective offering if a seller of the offering has given affirmative indication to allow a buyer a chance to buy the first offering at a seller determined price; and removing the visual indicator after a first bid is received on the first offering from a first buyer," as included in independent claim 20.

Claims 2-5, 7-9, 11, 13-19, and 22 are all dependent from one of the aforementioned allowable independent claims and are therefore allowable for at least the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

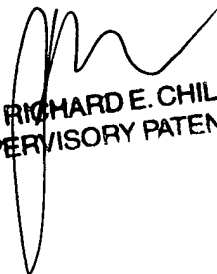
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER